Supreme Court, U.S.
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(1)

In the

Supreme Court of the United States

JAMES L. MARTIN,

Petitioner,

v.

JOHN D. WALMER, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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58 pp

QUESTIONS PRESENTED

A. Are filing clerks required to file and to transmit a motion to recuse and to disqualify a justice at the Supreme Court of the United States, and if so, must the justice must issue a decision on the recusal motion?

B. Does the doctrine of absolute judicial immunity protect malicious state judges, and if so, does it also protect them from claims for prospective, injunctive remedies where they issue decisions on cases that are not lawfully before them?

PARTIES TO THE PROCEEDING

The Petitioner is:

James L. Martin

The Respondents are:

No. 00-2333

John D. Walmer, Philhaven Hospital, Rowland Shank, Chief Executive Officer of Philhaven; Widener University School of Law, Anthony J. Santoro, Edward C. Smith, Supreme Court of Pennsylvania, Robert N.C. Nix, Jr., Hon.; John P. Flaherty, Jr. Hon; William D. Hutchinson, Hon.; Rolf Larson, Hon.; James T. McDermott, Hon.; Nicholas P. Papadakos, Hon.; Stephen A. Zappala, Hon.; Ralph J. Cappy, Hon.; PA Board of Law Examiners, Justin M. Johnson, Chairman of the PA Board; John W. English, Vice-Chairman of the PA Board; Anthony S. Minisi; Harold Rosenn; Michael E. Kunz, Clerk of Court; Polyclinic Medical Center (D.C. 90-cv-02752)

PENNSYLVANIA STATE REAL ESTATE COMMISSION; COMMONWEALTH OF PENNSYLVANIA; PA DEPARTMENT OF STATE; BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS; DONNELLY, JOHN, Chairman of the PA Real Estate Commission in 1981; MULCAHY, FRANCIS, Chairman of the PA Real Estate Commission in 1983; EDUCATIONAL TESTING SERVICE, INC.; TESTING AGENT FOR A PA COMMISSION; MANWARING, EDWARD, Director of the ETS Real Estate Licensing Exam Program, (D.C. 85-02349)

Supreme Court of Pennsylvania, Nix, Hon. Robert N.C., Jr., Flaherty, Hon. John P. Jr.; Hutchinson, Hon. William D.;

Larson, Hon. Rolf Larson; McDermott, Hon. James T. ; Papadakos, Hon. Nicholas P.; Zappala, Hon. Stephen A.; PA Board of Law Examiners, Johnson, Justin M., Chairman of the PA Board; English, John W., Vice-Chairman of the PA Board; Minisi, Anthony S., Board Member; Rosenn, Howard, Board Member, (D.C. 88-02351)

Phares Wilson, Pennsylvania State Police, James Nicksic, Douglas Tobin, Robert Spena, John Pachuta; Commonwealth of PA, PA Dept. of Transportation, (Bureau of Traffic Safety Operations), (D.C. 88-2300)

Delaware Law School of Widener University,; Anthony J. Santoro; Thomas Reed; Gary Munneke; John Landis; Pamelee M. McFarland, Polyclinic Medical Center (D.C. 88-03420)

In Re: Martin, James Lee (D.C. 89-00207)

Justin M. Johnson, Chairman of the PA Board; John W. English, Vice-Chairman of the PA Board; Anthony S. Minisi, Board Member; Harold Rosenn, Board Member (D.C. 86-01363)

No. 02-1424:

Delaware Law School of Widener University, Inc.; Anthony J. Santoro; Thomas Reed; Gary Munneke; John Landis; and Pamelee M. McFarland, respondents (D.C. 88-cv-00298)

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OPINIONS BELOW

The judgments sought to be reviewed were issued on 10-16-01, at Ex-1a, and on 7-9-02, the petition for rehearing, and for rehearing *en banc,* at Ex-2a. The decisions on the recusal motions and on the motion to recall mandate, at Ex-3a and 4a, are also to be reviewed. The first seven (7) cases were consolidated because they all arose in the E. District of PA, and all pertain to related issues. The eighth case, from the District of Delaware, involves the same parties and comparable issues, and its decision on 10-23-02, at 5a-6a, is to be reviewed as well. A petition for rehearing is pending at this time. The period for seeking review was extended to 12-6-02, to allow for a decision in the eighth case, a Delaware appeal, and for a Delaware State Senate Resolution.

STATEMENT OF THIS COURT'S JURISDICTION

This Court's jurisdiction for review is at 28 USC Sec. 1254(1).

AUTHORITIES RELIED UPON

28 USC Sec. 455, DISQUALIFICATION OF JUSTICE, JUDGE, ...:

> "(a) Any judge . . . shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
>
> (b) He shall also disqualify himself in the following circumstances:
>
> (1) Where he has a personal bias or prejudice concerning a party, ..."

F. R. Civ. P. 60(b):

> "On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or

> proceeding for the following reasons: . . . (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud . . . ; (4) the judgment is void; (5) . . . it is no longer equitable that the judgment [from liar DE federal trial judge Farnan and his confederates] should have prospective application; or (6) any other reason justifying relief from the operation of the judgment."

STATEMENT OF THE CASE

Basis for federal jurisdiction in the court below. The Court of Appeals has jurisdiction pursuant to 28 USC Sec. 1291, for appeal from a final order.

Facts. The background facts have been described in the certiorari petition docketed at *Martin v. Walmer, et. al.*, 99-2009, incorporated here. The respondent Law School's history are permeated with discrimination as early as 6-2-71, when Alfred Avins, its founding Dean, filed articles of incorporation. On 10-20-71, Richard Rio, an attorney with the IRS Exempt Organizations Branch, raised questions about the Law School's non-discrimination policy. On 10-22-71, Avins responded to issues about discrimination in these terms:

> "The school received applications from six students who would appear from their pictures to be Negro descent and accepted five of them. Two of these decided not to come, and three Negro students are in attendance. In addition, we have one student of Mongolian descent, two of an apparently Spanish-language descent, and the usual polyglot group of the Northeastern seaboard. The school keeps no anthropological records.

> "He also referred to the catalog, where it 'states a non-discrimination policy. . . . There is no reference to race in any of the classes.' A copy of the entire catalog was attached, and it included the application for enrollment, whose questions included one about medical history, combined with criminal background as part of the same question (numbered 6), and the last one, which asks, '(7) Do you have any physical defects which might affect your ability to study law'?"

In November 1971, the IRS withheld granting the exemption until further evidence of non-discrimination was provided. On 11-12-71, Alfred Avins signed a resolution to enjoin discrimination, submitted it on the Law School's letterhead, with P.O. Box 1624 as its address, with no street address, and with no mention of the names of the members of the Board of Trustees, if any, in attendance when the motion was adopted:

> "The Delaware Law School has, and plans to continue, a policy which precludes discrimination based on race, religion, national or ethnic origin, sex, political views, or other matters unrelated to the study of law."

On 1-27-75, the *Delaware Law Forum*, a publication of the Delaware Law School, issued an article featuring Professor Joseph J. Farnan, Jr., who became a Delaware federal district court judge in 1985. Judge Farnan said, as noted in that article, "I was approached by Dean Emeritus Avins . . . [and asked to teach at Delaware Law School.]" (Dean Avins hired Prof. Farnan to teach at the respondent Law School. Prof. Farnan became a federal trial judge in Delaware, in 1985, and these were among his first cases. Judge Farnan lied about his nexus with the Law School and

persisted to protect it until I coincidentally learned about his disqualifying affiliation in 1991.)

My association with the Law School began in December 1979, when I applied for enrollment. The application contained a question about whether the applicant had ever been in a "mental, penal, or correctional institution." I correctly answered "no."

While I was a law student, in the early 1980s, the PA Dept. of Transportation (PennDOT) respondents issued a revocation notice, that respondent Pachuta, its director, signed. It reads:

> "Physical examination reports submitted by the physician of your choice revealed that you have a neuropsychiatric condition which is not compatible with the safe operation of a motor vehicle."

Although nearly all of the respondents were shielded from any discovery requests, the PennDOT group did eventually file some answers. Many years later, the PennDOT respondents admitted, under oath, this statement:

> "You never did have any medical reports from a doctor or from any medical personnel about any medical impairment you alleged I had," and ". . . denied . . . that plaintiff [petitioner] had a medical impairment."

They also "Admitted that the Department did not refrain from its efforts to obtain possession of plaintiff's [petitioner's] driver's license." In 1982, when I worked as an intern at the US Department of Justice, after being issued a security clearance, the PennDOT respondents persisted with their scheme, but on 12-1-83, took the first step to restore my license.

Contrary to the generalizations from some of the judges in the record, I specified the time when the official misconduct occurred. For example,

> "On 9-24-81, Officer Nicksic came to my home at RD 4, Box 434, Quarryville, PA, 19766, in southern Lancaster county, PA, and left a written note that directed me to find someone who would drive me to the police station."

The respondents' answer reads, "Admitted that [respondent] Trooper Nicksic left a note directing plaintiff to surrender his driver's license to the State Police and find someone to drive him to the Lancaster Barracks." Another request for admission reads, "On Friday evening, 3-26-82, Nicksic participated in an attempt to get physical custody over me by awaiting my return to my Quarryville [PA] home until almost midnight," also shows the extent of the harassment. Their response:

> "Admitted that Trooper Nicksic attempted to secure plaintiff's driver's license by going to his home sometime after the lift order was issued. Nicksic does not recall the date."

A pattern has emerged among the related cases. In addition to the outrageous harassment based on non-existent medical reports, the respondents are also notorious for their blatant disregard for rules requiring them to honor a stay. They admitted they "did not respond to the Petition for Review that I filed in the Lancaster County Court of Common Pleas on 6-12-81 at Trust Book 47, p. 30," and admitted, "After I filed the Notice of Appeal on 6-11-81, you [respondents] continued to pursue this matter as though it were not pending in any court." The original file was missing

at the trial court, and because it could not be transmitted to the appeals court, the appeal was delayed for several years. I filed a petition *nunc pro tunc* with the trial court to have the record restored, based on my certified copies. After my petition was granted, the appeal proceeded, and the respondents did not oppose it. The appeals court declared the case "moot," after the respondents claimed they had restored my license. As the transcript of the conversation with respondent PennDOT's Theresa O'Neill discloses, as of 9-11-90, the respondents had not yet restored my license. I do not believe they ever restored it, even though they alleged to have done so.

The PA federal trial court's decision was issued in bad faith, because it shows a deliberate and intentional disregard for what has been occurring in these related cases from the time they were first filed, over two decades ago, until the present time. The decision, at Ex-7a, says, ". . . Plaintiff has been given every fair opportunity to challenge the final decisions in these matters, ..." The record shows just the opposite: I have been given no opportunity at all to even present any of these cases, because liar federal DE Judge Joseph Farnan, a paid employee of the respondent Law School, who presided over the related cases for six (6) years, who denied his affiliation, and whose lies about his association with the respondent have been condoned at the behest of his superiors on the bench, who have similar conflicts of interest, enjoined the timely discovery of evidence with an order barring all mandatory disclosure of evidence to protect his former employer. Judge Farnan's successor, Judge Robinson, excused her involvement in these interrelated cases by claiming that "the first litigation involving plaintiff Martin and the Delaware Law School . . . was instituted in 1985, well after my departure from Potter, Anderson & Corroon [the respondent Law School's counsel in this case, including the present time]," even though the discrimination involving the

School originated when Dean Avins drafted unlawful and discriminatory questions for the enrollment application as early as 1971. Judge Robinson's involvement allowed unscrupulous attorney-colleagues still working at her former law firm to carry out outrageous abuses of civil procedure, without the least accountability. A letter from Widener University's Director of Personnel stated: ". . . Judge J. Farnan, Jr. ["judge" who presided over the interrelated Law School cases before Judge Robinson was assigned to them] is not currently, nor has he ever been, an employee of Widener University or it's [sic] precedessors." Potter, Anderson & Corroon, Judge Robinson's former employer, filed a response to my Rule 60(b)(4) Motion that says ". . . there is no indication that the Honorable Joseph J. Farnan, Jr. was ever employed by the Law School." They filed this well after uncontradicted evidence proved Farnan's employment at the respondent. Judge Robinson continues to function just as if she is still working at the Law School's law firm. See her decision at Ex-11a to 12a, where she wrote:

> "3. Aside from being untimely, the allegations contained in the motion [to reopen] are not new and have been substantially addressed by the many courts in which plaintiff has filed complaints."

The Motion to Reopen was filed on 5-31-01, and DeAngelis issued her affidavit on 8-3-00, so "being untimely" is not consistent with the civil rules, which allow for one year from the discovery of evidence that could not have been procured through discovery. I did file the DeAngelis affidavit before 5-31-01 in some of the other courts whose cases were mishandled for misplaced reliance on liar Farnan's void decisions. The contents of the affidavit were not brought before the court before, because liar judge Farnan blocked their disclosure.

The DeAngelis affidavit corroborates what the committee's chairman, John Kurtz, told James Turner, the hearing examiner for the Office of Civil Rights, US Dept. of Education, on 9-12-85. When asked about whether the Grievance Committee had any jurisdiction over the matter, Kurtz admitted,

> "Generally, matters of admission are not considered by us. We have those matters between a school and students, cheating, grading, charges of bias, student suspensions from class."

Kurtz also conceded that the Grievance Committee had no jurisdiction because no grievance was ever filed: "That case [this one] did not have a formal grievance." The respondent's Code of Conduct did not provide for any proceedings on the basis of an informal grievance, or for casual, discriminatory, and officious intermeddling in one's remote medical past, religious beliefs, age, gender, national origin, race, and the like.

The recently-disclosed evidence, from affiant DeAngelis, which the Third Circuit is trying to suppress by prospectively enjoining me from filing anything against the parties to this case, follows:

> (The Third Circuit has a compelling motive to bury the facts surrounding one of the most extensive and prolonged series of cases ever brought before this court, and a parallel affiliation between many of its member judges and the respondent Law School rivals the nexus the Delaware trial judge had with the Law School. To thwart the progress of this case, the Third Circuit prematurely terminated the appeal. I filed to recall the mandate, which

was denied by order dated 3-4-02, at Ex-4a. I subsequently became more forceful, and pressed the procedural issue to compel the mandate to be recalled, and the termination order vacated, which the Circuit did. The point is that the issuance of the mandate prematurely, before the appeal had been fully briefed, illustrates the deliberate and continuing, judicial efforts to sabotage these consolidated proceedings.)

"According to Henry [one of three committee members on the faculty at the Law School, who was entrusted with reaching a decision after rumors circulated about the petitioner's medical history], the reason Martin's case was mishandled at Widener resulted from the prevailing countercurrents created with disclosures surrounding then Widener law student Robert King. King was related to Supreme Court Justice Black, had a criminal homicide record, but lied about it and was admitted to Widener to study law. King's family possessed considerable wealth/power. During his tenure as a law student, he threatened a faculty member with a gun, and the issue naturally arose about what sanctions should be imposed. The rules called for his expulsion, in view of his misrepresentations on his application for admission as well as his physical threat to a faculty member. Instead of carrying out the mandated expulsion of King, Widener considered the King case in a political light, and decided to avoid potential implications in view of the relationship between King and Justice Black. Therefore,

> Widener arranged for King to transfer to the University of Maryland School of Law to continue legal studies.
>
> "These machinations surrounding the King case created an atmosphere with Widener's faculty of vindictiveness and of a jealous competition for special treatment in light of an obvious use of double standards. Some disagreed with and felt shame about how King was allowed to lie about such significant matters as his prior criminal record, his prior dismissal from another law school, but also his accosting a Widener faculty member with a gun. Other faculty hoped to curry favor by covering up the school's prior use of double standards; they established a pretense of extreme intolerance for unethical/unlawful behavior. These faculty therefore intended to impose severe sanctions on any future student suspected of lying on his application for admission, regardless of whether the question was a lawful one."

The PA state judicial respondents, through their attorney, claimed that they made a "mistake" when they listed my name among those who were successful candidates for bar admission, and they created a novel claim that has no precedent in reported case law. The factual questions surrounding their claim should have been answered with discovery through mandatory process. Questions like the name of the person who made the "mistake;" the circumstances that led to its discovery; the notification, if any, of those person(s) most directly affected by the "mistake;" the administrative action taken to ensure against similar "mistakes" in the future; and other such questions that

naturally arise. Evidence has since come to light to indicate that no such mistake ever occurred; the interference with my standing resulted from corruption.

The state courts of last resort are responsible for the admission and disbarment of attorneys, and inferior state courts have no jurisdiction over such matters. The inability of a state court to convene a forum causes a vacuum that should be filled with the appointment of an *ad hoc* committee to serve on a case-by-case basis. Ineligible judges are to request temporary, substitute appointments from the governor, but where they are committed to protecting their part-time employer (the respondent Law School), which occurred in Delaware and in Pennsylvania, where the Law School has a campus, they either abridge this duty, or they select substitutes who also have conflicts of interest, or they purport to preside just as if no conflicts exist. The record shows all of these ploys to have been tried.

The following resolution was entered on the consent calendar in the Delaware State Senate, but has not been brought up for a vote. In March 2002, when I met with some of the senior state senators in Dover, I learned that they had been aware of the intrinsic problems with attorneys' "self-regulation" for many years. The legal profession is the only one whose regulatory committees have no members who do not practice the same profession.

DE NOVO REVIEW OF CASES WHERE THE ONLY DELAWARE COURT WITH JURISDICTION WAS UNABLE TO CONVENE A FORUM

> "WHEREAS, this tenth day of October, 2002, a special session of the 141st General Assembly of the State of Delaware; the Senators having been advised about the failure of the Delaware Supreme Court to convene a forum for James L. Martin; and

WHEREAS, James L. Martin has earned a passing score on the state bar exams administered in various sister states, and has been admitted to practice law before all the United States Circuit Courts of Appeals, among others, but has been subject to revocation and disbarment proceedings there solely because of Widener's dissemination of personal information known to be factually erroneous, and legally outside the scope of permissible inquiry; and

WHEREAS, a final, federal administrative judgment was issued against Widener for posing the unlawful question about Martin's remote medical history (which he answered correctly but which the Faculty Secretary misreported); and

WHEREAS, Martin's unblemished lifetime record, free of any arrests, criminal charges, convictions, violations, and the like, enabled him to pass security clearances to serve internships at the US Department of Justice in Washington, DC; at the Delaware Office of the Attorney General; and at a private law firm; and further enables him to maintain other professional licensure; and

WHEREAS, the citizens of Delaware stand strong in support for responding to lawful inquirires from other judicial systems about the background of its professionals;

NOW, THEREFORE: BE IT RESOLVED by the Senate of the 141st General Assembly of the State of Delaware that the President *pro tem* shall appoint an *ad hoc* Committee to review *de novo* the evidence surrounding the interrelated cases of James L. Martin, shall be

> further conferred with compulsory process as to which authority judicial immunity shall not be a lawful defense, and shall issue a report and recommendation to the Senate for a fair resolution."

The conflicts of interest between judges and the respondent Law School are not restricted to the state and federal trial and first-level appeals courts. Chief Justice Rehnquist has been affiliated with the respondent Law School for many years.

The first question respondent Justin Johnson, Chairman of the Board of Law Examiners asked me at the hearing on 5-7-84 was: "Mr. Martin, you are aware of the fact that this is a hearing to review your fitness to sit before the Pennsylvania Bar Examination; is that correct?"

I responded that I had already passed the PA Bar Exam. Respondent Johnson turned to Anderson with a puzzled look. She nodded that I was correct. The court reporter did not reference this non-verbal exchange. Johnson seemed surprised, but disregarded the rules governing bar admission in Pennsylvania, and disregarded my unblemished lifetime record to proceed with the scam anyway. The scam is novel in the sense that the respondent examiners did know they had no jurisdiction over the case after an aspiring lawyer candidate had been granted clearance to sit for the bar exam, as I had been.

I learned that I passed the PA bar exam (and the Multi-State Bar Exam as well, for which I sat in Philadelphia) from the Thursday, Oct. 20, 1983 edition of the *Philadelphia Inquirer*, p. 10-B W, where my name and address appeared under this headline: "The names of the successful candidates are as follows: . . .." The official list of successful candidates was maintained at the Public Ledger Building in Philadelphia. The respondents removed my name from the official roster, which left a space between two other

candidates with the same last name. This act, to delete my name from an official record, constitutes misconduct well outside the scope of a judicial function, which only begins with the filing of a complaint. No complaint, no case. No case, no jurisdiction over the case, and therefore, judicial immunity, or any other kind of immunity, is not a valid defense, as argued below.

REASONS THE WRIT SHOULD BE GRANTED

A. A litigant before the US Supreme Court may move to recuse and to disqualify a justice, and the clerks should transmit a recusal application to a justice, who should issue a decision on it.

This issue arose during the past several years, after I learned about the conflicts of interest between the Chief Justice and the principal respondent Law School. Various clerks contradicted one another, but they all sought to shield the Chief Justice from addressing his thoroughly documented conflict of interest, which extends back nearly two decades, and which rivals the similar conflicts of interest between state and federal judges in the lower courts, who purported to preside over these and other cases, despite their jobs at, and association with, the respondent Law School.

The US Department of Education allowed the Law School to retaliate against me for having raised a complaint about the law school's violation of the Rehabilitation Act of 1973, Sec. 504, with its preadmission inquiry into remote medical history that recipients of federal financial assistance, including the Law School, are expressly forbidden to ask. That complaint culminated in a final decision in my favor, and against the respondent Law School. The resulting litigation to enforce the terms of the judgment would have been routine, but for the interference of both state and federal judges with ties to the same Law School, who violated, and in many instances, continue to violate Sec. 455.

In *Martin v. US Dept. of Education, et. al.*, No. 00-1894, I presented the following issue in the certiorari petition: "Is a justice serving on the Supreme Court of the United States subject to the recusal statute at 28 USC Sec. 455?" The petition was to reopen a case that was mishandled for many years, for its reliance on a federal judge, later "reassigned," after I learned he lied about his paid employment at the respondent Law School, and after I filed a Motion to Recuse in view of his blatant conflict of interest, as well as of his dishonesty about it. According to the decision dated 10-1-01, "The Chief Justice [William Rehnquist] took no part in the consideration or decision of this petition." The record of these related cases shows that the Chief Justice did take part in the consideration and decisions of dozens of cases I filed, despite his ineligibility to do so for a conflict of interest with the respondent Law School.

The clerks received an Application for Recusal and Disqualification *nunc pro tunc*, directed to Chief Justice Rehnquist, numerous times, in numerous cases. I filed it *nunc pro tunc* to request retroactive disqualification, to relate back to the time when the honorary doctor of laws degree from the respondent Law School was conferred on the Chief Justice. This recusal motion, like many others, was not ruled upon, but these motions should have been decided.

When I specifically requested a ruling on a similar request in a related case, *James L. Martin v. United States Tax Court*, Supreme Court Assistant Clerk Cynthia Rapp wrote to me in a letter dated 4-10-00:

> "The request is premature as you currently have no case before the [Supreme] Court. Furthermore, a Justice will *sua sponte* recuse him or herself if it is appropriate."

I responded, in a letter that was stamped "received 6-7-00, Office of the Clerk, Supreme Court, US:"

> The Application for Recusal was timely and appropriate in view of my Application for a Stay that was denied on 3-29-00 by Chief Justice Rehnquist, even though my Application for a Stay, at No. A-99A800, was filed with a Recusal Application [directed to Chief Justice Rehnquist] at that time. You suggest that recusal applications are premature for all issues prior to the issuance of a docket number. In fact, a petitioner before the court is entitled to an arguably neutral justice on all issues, including preliminary ones as well as applications for stays.
>
> Your comment about a *sua sponte* recusal is not entirely correct, but it does not preclude a petitioner from seeking recusal. Obviously, Chief Justice Rehnquist should have been recused from all cases involving the Delaware Law School of Widener University [also called Widener University School of Law], but he was recused from none of those cases. See attached article [about his association with the respondent Law School, omitted here].
>
> You should also be aware of the statement from MJD [Mary Jane DeAngelis]. A neutral justice would have made a decisive difference in the cases I brought, and will continue to bring, before the court.

My response made no difference at that time, and the recusal motion was not ruled upon.

Three months later, after I docketed the certiorari petition entitled *James L. Martin v. John D. Walmer, [Widener University School of Law], et. al.*, No. 99-2009, which the Third Circuit cited as a basis to deny the relief

sought on appeal at No. 00-2333, and which is the case *sub judice*, and after I filed another Motion to Recuse and to Disqualify Chief Justice Rehnquist, Assistant Clerk Francis J. Lorson wrote to me in a letter dated 7-10-00:

> "Your motion for the Chief Justice to recuse himself was received and has been circulated to the Court for its information. Such motions are not placed on this Court's docket."

Because the *Walmer* case, at No. 99-2002, was before this court after the certiorari petition was docketed, and because the Motion to Recuse was presented for filing at the Clerk's Office after the accompanying certiorari petition was docketed, the argument from Clerk Rapp about the recusal motion being "premature as you currently have no case before the Court" failed. The docket number appeared on the Application for Recusal and Disqualification of Chief Justice Rehnquist. The result remained the same: No decision on a recusal motion for conflict of interest, directed to a justice.

Clerk Rapp's second argument about a justice's *sua sponte* recusal in appropriate cases also failed, not only because of the facts to merit recusal, but also because Chief Justice Rehnquist failed to recuse and to disqualify himself. Both of Rapp's excuses were likely false at the time they were issued, because "Such motions are not placed on this Court's docket" according to Assistant Clerk Lorson, also at the Clerk's Office.

The Widener University School of Law, where Chief Justice Rehnquist appeared as a speaker and where he has been awarded an Honorary Doctor of Laws degree at least nineteen (19) years ago, created disinformation about me, which various courts, especially the Third Circuit (where the conflicts of interest between the judges, and the respondent Law School, abound) exported throughout the country,

including both state and federal courts. The scheme was so outrageous that the Third Circuit mailed its disinformation, based in part on a transcript of my testimony that various bar officials falsified, to courts where I had never applied for admission. I recorded my own testimony, and had a sound engineer issue an affidavit to detail the difference between what was attributed to me, as contrasted to what I actually said.

The appearance of Chief Justice Rehnquist at the Widener University School of Law's Radisson Hotel on Friday, October 23, 1998, where he was an honored guest who spoke about a book he had written and was promoting dealing with wartime civil liberties, remains part of the factual foundation for seeking recusal. Afterwards, the Law School held a private reception in its library, so that the affiliation between Justice Rehnquist and the Law School cannot be questioned. The result of over one-hundred (100) certiorari petitions would have been substantially different if a neutral judge had been presiding, rather than one so completely committed to the adversaries. Jeff Moulton, a professor on the faculty at the Law School, who clerked for Justice Rehnquist in the mid-1980's, introduced Justice Rehnquist to the audience of about 600. (See article from Sec. B1, *The News Journal*, Wilmington, DE, Oct. 24, 1998.) Because law clerks file memos to suggest the disposition of petitions before the court, the association at the root of the recusal request may exceed the documented nexus between the Chief Justice and the respondent Law School. This recusal motion is appropriate for both the current case as well as prior, related cases *nunc pro tunc*.

Assistant Clerk Gail Johnson did send an Application for Recusal and Disqualification to Chief Justice Rehnquist, in *Martin v. Committee on Admissions of the DC Court of Appeals*, at Application No. 01A564, issued on 1-29-02, and this procedure mandates what should be specifically adopted and made an express part of the rules of court: a certiorari

petition does not have to be docketed prior to the filing of, and a decision on, an Application for Recusal and Disqualification. The issues presented in the certiorari petition should be restricted to those raised in the lower courts. A petitioner should not be burdened with issues about judicial bias rooted in blatant conflicts of interest that have pervaded these related cases for the past two decades.

When I presented an Application for Recusal in the case now before the court, Chief Deputy Clerk Christopher W. Vasil returned it to me with a letter that reads: "The application for recusal, received on October 16, 2002, is herewith returned as the above-entitled case is not pending in this Court."

On 10-25-02, I mailed the Application for Recusal to Clerk Johnson, because she had previously and corrected transmitted it to the Chief Justice, in accord with the customary practice at other courts. I wrote:

> The enclosed Application for Recusal was recently returned to me without filing, in error. It was stamped "received" on October 16. I am returning it to you for filing, because the procedural status of the enclosed case, not docketed yet, is identical to the prior ones you handled, as noted on this page above, and highlighted. [I included the decision from a related case, where the clerk had properly handled it from a procedural standpoint.] Also see the Maryland Application No. 01A565, where the highlighted portion shows a recusal decision before docketing of a certiorari petition.

On 11-15-02, I got the Application for Recusal back from the Clerk's Office, with a stamp showing its receipt, but no number to show its filing. Because Applications are filed

without fees, the question of payment did not come up. I called and left a message for Clerk Johnson. I also called Jeff Atkins, another Clerk, who said there is no procedural method to transmit an Application for Recusal to a Justice without first filing a certiorari petition. When I mentioned that it had already been done in other, related cases, he consulted with Clerk Vasil and said it cannot be done again. When I said the Application had not been transmitted to the court even after the accompanying certiorari petition was docketed in a related case, he abruptly terminated our conversation.

Later the same day, I mailed the Application for Recusal to Chief Clerk William Suter, by certified mail, restricted delivery to addressee only. I received the return receipt with a stamp showing its delivery to the Clerk's Office on 11-21-02, but without any signature of the person who accepted it. I included the following written note to Clerk Suter, after explaining how subordinate clerks had returned the Application:

> If the question [about recusal] is not allowed to be raised until after a cert. petition is docketed, then the court is likely to deny the petition, and never consider the application for recusal [which did happen before]. This variation, advanced through the efforts of Deputy Clerk Vasil, would effectively insulate justices from questions about bias, and contradicts Sec. 455 governing recusal and disqualification.
>
> Please promptly transmit the enclosed Application in accord with prior practice before the court [in the DC and MD cases].

No docket number, decision, or evidence has been received on the Application to Recuse yet.

The certiorari petition should be granted to provide for the recusal and disqualification of Chief Justice Rehnquist, retroactively to the time when the first case involving the Law School as a respondent was filed in the US Supreme Court. The rules should be amended to expressly allow for an Application to Recuse, prior to the filing of a certiorari petition. The court's amended rules, changed to prevent my seeking remedies for the recounted outrages, failed to enjoin further lawful efforts to carry out a long-standing judgment. Ironically, the rules would have been more appropriately amended to exclude justices on account of conficts of interest, rather than to interfere with a litigant seeking to carry out a final judgment, with repeated resistance from conclusively-biased judges. The ruling should be drafted to include inferior state and federal judges with parallel conflicts of interest involving the same respondent Law School, so that the Third Circuit is directed to reverse and remand these consolidated cases in accord with Rule 60(b), governing the reopening of mishandled cases, after neutral judges are appointed to the Third Circuit for the duration of these interrelated cases. Other Circuits have held that the standard for determining disqualification is "whether a reasonable person would be convinced the judge was biased." *Brokaw v. Mercer County*, 235 F.3d 1000, 1025 (7th Cir. 2000) (citing *Hook v. McDade*, 89 F.3d 350, 355 (7th Cir. 1996)).

B. The doctrine of absolute judicial immunity should not protect malicious judges.

Because the starting point, a grievance or complaint, is missing, one naturally wonders what set of factual circumstances could give rise to, and to sustain, a continuing interference with my standing in various professions, including law. Doctrines of confidentiality and of secrecy, inherent in the licensing and the discipline of attorneys, are

designed to allow witnesses unfettered discretion to share information about possible misconduct without fear of retaliation, and to shield the accused from bad publicity if the charges are unfounded. The same confidentiality has allowed various official criminals, since convicted, removed, sentenced, imprisoned, or disgraced and retired, to carry out self-serving schemes under the guise of protecting the public from those ineligible to practice a profession. Ordinarily, one who is accused of misconduct seeks to suppress evidence of it. The "accused" seeks to do the opposite, to access evidence known to exist, but which is in the exclusive and protected custody of the respondents. That evidence proves that, contrary to their novel fiction about my state bar admission being their "mistake," no mistake ever occurred.

The basis for the decision in many of these consolidated cases was that the judicial respondents were entitled to absolute judicial immunity. Private parties, like the Law School respondents, were shielded under a kind of derivative immunity, even though the private parties' misconduct occurred before the judges began to protect them. The facts disclose a pattern of malice that the respondents share. Examples include the deliberate and prolonged prosecution of a citizen for driver's license violations, even though they knew at that time that the petitioner had an unblemished record, and that they had no medical records whatsoever to warrant a revocation. Their misconduct after the fact, to dishonor the legal effect of an appeal, that serves as a supersedeas and as a stay, is even more malicious. The disappearance of the original file from the courthouse casts more contempt over the judges involved in this aspect of the consolidated cases.

The federal constitution is silent on the issue of absolute judicial immunity. Federal courts

> "have proceeded on the assumption that common-law principles of legislative and

> judicial immunity were incorporated into our judicial system and that they should not be abrogated absent clear legislative intent to do so."

Pulliam v. Allen, 466 U.S. 522, 529 (1984).

A two-prong test has been developed during the past two decades to question whether the function is one "normally performed by a judge," and whether the judge "acted in complete absence of all jurisdiction." *Stump v. Sparkman*, 435 U.S. 349, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978). In a classic example offered by the Supreme Court 120 years ago,

> "if a probate court, invested only with authority over wills and the settlement of estates of deceased persons, should proceed to try parties for [criminal] offenses, jurisdiction over the subject of offenses being entirely wanting in the court, and this being necessarily known to its judge, his commission would afford no protection to him in the exercise of the usurped authority." *Bradley v. Fisher*, 80 U.S. 335, 352 (1872). On the other hand, if a judge in a criminal court convicts a defendant of even a non-existent crime, he maintains his immunity, because "where jurisdiction over the subject-matter is invested by law in the judge, or in the court which he holds, the manner and extent in which the jurisdiction shall be exercised are generally as much questions for his determination as any other questions involved in the case...." *Id.*

The case at bar presents the novel question about whether judges who are malicious, and who act without the benefit of a case before them, are within the scope of, and protected by, the defense of absolute immunity. For a case to get underway, a complaint of some kind must be filed. As the record proves here, no complaint was ever filed against me. When the Law School respondents started their vendetta against me, although the School's Code of Conduct mandated the filing of a complaint or grievance to begin the process, no such complaint was ever brought, because there was no factual basis for developing a complaint. Nonetheless, they misreported the "findings" of a committee whose chairman admitted they had no jurisdiction over a matter about a student's admission to the Law School, or about whether a student's answer to their unlawful question about his remote medical history was correct or not.

PennDOT respondents, including the state police officers, had no underlying complaint from anyone to initiate any kind of lawful process to interfere with my life or career, which they maliciously did for several years. To get their harassment underway, they lied about the existence of medical records they claimed to have, but which never existed, by their own subsequent admission, and dishonored well-established court procedures after a case was filed in the trial court.

The bar admission authorities, including the state court judges who are respondents here, did not have any jurisdiction to question my standing in the state bar, or my eligibility to be admitted to the state bar. This distinction became moot when the Supreme Court allowed several summary disbarments, without notice, hearing, or cause, under the fictitious guise of a "mistaken admission," without a complaint from some person. One may imagine, in a different case, that a judge could *sua sponte* initiate a valid and lawful complaint against an attorney or bar applicant, for some bad act, but that did not occur here, so that line of

BEST AVAILABLE COPY

authority is not relevant. The relevant fact is that the judges and bar examiners did know they had no basis for interfering with the bar licensing process at it related to me. The judicial respondents, through the secretary of the respondent bar committee, fabricated a story about their having made a mistake. Just as they are not responsible for mistakes I may make, I am not responsible for their mistakes, if any. Even if their statements were true, their "mistakes" are not attributable to me. Ordinarily, malicious and baseless interference with the life and the career of a law-abiding citizen is not within the province of a judge's function, so that the first prong of the immunity test fails, because it is not within the normal function of a judge, or a panel of judges, to interpose their decision in a case that has no origin.

The second prong, about whether the judges "acted in complete absence of all jurisdiction," is also answered in the affirmative. For a judge to have any jurisdiction at all, a case must lawfully begin. A case begins with the filing of a complaint, or some lawful inquiry. No case began. What did get underway, and what continues, is the abuse of state authority, under color of state law, and it should have been remedied years ago, when I filed a civil rights action under Sec. 1983. Arguably neutral judges would have helped.

Some case law suggests immunity should be restricted to officials who subjectively belief that they are acting in good-faith. The subjective test for good faith immunity was devised in *Woods v. Strickland,* 420 U.S. 308 (1975): "The official himself must be acting sincerely and with a belief that he is doing right." This principle has not been extended to judges, however. Judges will not be deprived of immunity for erroneous acts or even those actions performed maliciously or in excess of authority. *Glick v. Koenig*, 766 F.2d 265.

A judge is immune from civil damage suits...immunity extends even to malicious or corrupt acts. *Bryant v. O'Connor*, 671 F.Supp. 1279.

According to *Pulliam v. Allen*, 466 US at 532:

> " It is essential in all courts that the judges who are appointed to administer the law should be permitted to administer it under protection of the law, independently and freely, without favor and without fear. This provision of the law is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence, and without fear of consequences."

The state has no interest in protecting malicious judges. The doctrine that originated in early seventeenth-century England, with its roots in the fifteenth-century Star Chamber.

Respondent Judge Larsen has already been impeached, convicted, removed from office, and disbarred for colluding to fix the outcome of appeals, the same kind of misconduct I proved against him. Respondent judge Nix has already been disgraced and prematurely retired for misconduct in the course of his judicial duties. PA Federal Judge Newcomer wrote:

> ". . . [T]his Court [Eastern District of PA] cannot turn a blind eye to the fact that too often members of the Pennsylvania state appellate judiciary [state supreme court in particular] have shaken the confidence of the people in the fair and impartial administration of justice in this Commonwealth. This instance [corrupt mishandling of *Yohn* case] is but one of many in which the judges in Pennsylvania have appeared to act with more

> than the evenhanded application of the law in mind, ..."

Yohn v. Love, 887 F. Supp. 773, 798 (E. D. Pa. 1995):

> "The Chief Justice [the disgraced and prematurely retired Nix, who signed the order purporting to nullify the scores I earned on the PA Bar Exam, which had already been transferred to NJ where I was formally admitted to practice law before the state court] was in no position to make a ruling on the tape's admissibility, having never heard it. His interference in the trial was, as discussed in detail above, nothing other than a ***gross abuse*** [emphasis added] of the jurisdictional limits of his power." *Id.*, at 796-797.

As the U.S. Supreme Court observed in *Pierson v. Ray*, when speaking of judicial immunity,

> ". . . the immunity is not for the benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences. . . . Imposing such a burden [litigation claims] on judges would contribute not to fearless decision-making but to intimidation." 386 U.S. 547, 554.

John W. Dean also wrote about corruption during the Nixon administration while he worked there as counsel, prior to Watergate. See *The Rehnquist Choice: The Untold Story of the Nixon Appointment that Redefined the Supreme Court.* New York: Free Press, 2001. The release of Nixon-era

documents at the National Archives during the fall of 2000 shows that some judges were confirmed despite shadows about their integrity, and their abuse of the courts is evident in the corruption at issue in these consolidated cases.

The respondent PA Supreme Court's vile nature was detailed in *We All Fall Down: A Chronicle of an Impeachment Foretold*, by investigative news reporter William Keisling (Yardbird Books, 1996). One of Larsen's charges was that respondent Zappala tried to kill him by running him over with a car outside the Four Seasons Hotel in Philadelphia. Reporter Keisling's book details these respondents' malice.

On 7-23-96, Ernest D. Preate, Jr., former PA Attorney General, then in the Federal Penitentiary, Minimum Security Section; Duluth, Minn., where he was serving a sentence for his financial dealings with organized crime in exchange for non-prosecution of them, responded to a letter I wrote to him about the ". . . corrupt PA state officials you [Preate] were purporting to represent, [who] had recalled my driving privileges with knowledge that I had no adverse driving histor , ..." I reminded him that the state officials he purported to represent admitted: "At no time did you [corrupt PA state licensing officials] grant me the opportunity for a hearing before revoking my license."

Preate's response, handwritten on lined paper, reads: ". . . You ask, I surmise, if I have any personal knowledge of your case. The answer, sir, is that I do not. * * * * * * * * *" These cases demonstrate that malicious and criminal judges may be represented by a felon, and their felon-counsel does not need to know anything about the "case" to perform his legal representation. Absolute immunity renders rationality immaterial.

CONCLUSION

This certiorari petition should be granted to resolve contradictory and unlawful attempts among Supreme Court Clerks to shield a justice from considering and deciding a motion to recuse for conflict of interest. Conflicts among the US Courts of Appeals about the availability of the immunity defense for injunctive and declarative relief in cases involving judicial corruption, like these consolidated cases, should be resolved by granting the writ, and reversing and remanding these consolidated cases for pretrial proceedings consistent with the terms of a final judgment issued in 1986, but blocked at the behest of judges who were ineligible to preside from the inception because of blatant conflicts of interest with the respondents.

DATED: December 3, 2002

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IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 00-2333

JAMES L. MARTIN,

v.

JOHN D. WALMER; PHILHAVEN HOSPITAL;
ROWLAND SHANK, et. al.,

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
District Judge: Honorable Clifford Scott Green

Submitted Under Third Circuit LAR 34.1(a)
July 2, 2001

Before: NYGAARD, MCKEE AND GREENBERG, Circuit Judges.

JUDGMENT

This case came on to be heard on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a). On consideration whereof, it is now here

ORDERED AND ADJUDGED by this court that the judgment of the District Court entered July 26, 2000 be and the same is hereby affirmed. Double costs taxed against the appellant pursuant to FED. R. APP. p. 38. All of the above in accordance with the opinion of this Court.

ATTEST: Clerk
DATED: October 16, 2001

THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 00-2333

JAMES L. MARTIN,

v.

JOHN D. WALMER; PHILHAVEN HOSPITAL;
ROWLAND SHANK, et. al.,

On Appeal from the United States District Court for the
Eastern District of Pennsylvania

SUR PETITION FOR REHEARING

BEFORE: BECKER, Chief Judge, SLOVITER, SCIRICA, NYGAARD, ALITO, ROTH, MCKEE, BARRY, AMBRO, FUENTES, and GREENBERG, Circuit Judgesfn1

The Petition for rehearing filed the Appellant in the above-entitled matter, having been submitted to the judges who participated in the decision of this court and to all other available circuit judges in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges in regular active service not having voted for rehearing by this court en banc, the Petition for Rehearing is hereby DENIED.

It is so ordered.
By the Court,
United States Circuit Judge
DATE: July 9, 2002

Footnotes
fn1 Judge Greenberg's vote is limited to panel rehearing only.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 00-2333

JAMES L. MARTIN,

v.

JOHN D. WALMER; PHILHAVEN HOSPITAL;
ROWLAND SHANK, et. al.,

Present:

1) Motion by Appellant Pro Se, James L. Martin, to Recuse and Disqualify Justices, Hutchinson, Cowen, Stapleton, Mansmann, Sloviter, Nygaard, Alito, Greenberg, Becker, Roth, McKee, Rendell, Scirica and Senior Justices Aldisert and Weis

2) Copy of 11/13/00 Clerk's Order referring to Merits Panel.

The foregoing Motion is denied.

By the Court,
Circuit Judge

Dated: October 16, 2001

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 00-2333

JAMES L. MARTIN,

v.

JOHN D. WALMER; PHILHAVEN HOSPITAL;
ROWLAND SHANK, et. al.,

PRESENT: NYGAARD, McKEE and GREENBERG, Circuit Judges

1. Motion to Recall the Mandate by Appellant.

Phyllis Ruffin 267-099-4918
Case Manager

Answer due 12/11/01
Mandate issued 11/7/01
Petition for Rehearing attached for information

ORDER

The foregoing motion to recall the mandate is denied.

By the Court,
Circuit Judge

Dated: March 4, 2002

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 02-1424

JAMES L. MARTIN,
Appellant

v.

DELAWARE LAW SCHOOL OF WIDENER
UNIVERSITY, Appellees.
(District of Delaware) D.C. No. 88-cv-00298(SLR))

Present: NYGAARD, BARRY and FUENTES Circuit Judges

1.) Motion by Appellant to Recuse and Disqualify Justices Hutchinson, Cowen, Stapleton, Mansmann, Sloviter, Nygaard, Alito, Greenberg, Becker, Roth, McKee, Rendell, Scirica and Senior Justices Aldisert and Weis.

2) Motion by Appellant for Summary Reversal.

3) Response by Appellees to Appellant's Motion for Summary Reversal.

4) Copy of 4/8/02 Clerk Order referring above to Motions Panel.

4) Response by Appellant to Clerk's Order to Show Cause.

5) Motion by Appellant to Vacate Order dated 4/8/02 to Show Cause with Motion for Oral Argument.

6) Response of Appellees to Appellant's Response to 4/8/02 Order,

7) Copy of Opinion filed in 00-2333. The petition for en banc rehearing filed in

00-2333 is still PENDING at this time.

Phyllis Ruffin 267-299-4918
Case Manager

AMENDED ORDER

The foregoing motions are denied. The Clerk's submission for an order to show cause is granted. The appeal is hereby dismissed.

By the Court,
Circuit Judge

Dated: October 23, 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION NOS. 90-2752, 89-0207, 88-3240, 88-2300, 88-2351, 86-1363, 85-2349

JAMES L. MARTIN,
Plaintiff,

v.

JOHN D. WALMER; PHILHAVEN HOSPITAL; ROWLAND SHANK, et. al.,
Defendants

Filed December 4, 1998

ORDER

AND NOW, this 2nd day of December, 1998 it appearing that Plaintiff has filed a series of motions for reconsideration and motions to reopen In the above listed matters, said motions having been denied, and

it further appearing that Plaintiffs appeals of such have also been denied by the Court of Appeals for the Third Circuit and that Plaintiff has been given every fair opportunity to challenge the final decisions in these matters,

IT IS HEREBY ORDERED that Plaintiff James L. Martin is enjoined from filing or causing to be filed any further pleadings, motions or petitions in the above-listed matters.

IT IS FURTHER ORDERED that as Plaintiff has not presented any new evidence supporting an assertion that this court has subject matter jurisdiction over his claims, Plaintiffs Motion to Reopen Is DENIED.fn1

BY THE COURT:
CLIFFORD SCOTT GREEN, S.J.

Footnotes

fn1See Martin v. Walmer, et. al., (19990 U.S. Dist. LEXIS 13285 (E.D. PA Sept. 26, 1990); Id., No. 90-CV-2752 (E.D. PA May 14, 1997), Id., No. 90-CV-27S2 (E.D. PA June 20, 1997).

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION No. 90- 2752

JAMES L. MARTIN,
Plaintiff,

v.

JOHN D. WALMER; PHILHAVEN HOSPITAL;
ROWLAND SHANK, et. al.,
Defendants

Filed December 7, 2000

ORDER

AND NOW, this 6th day of July, 2000, IT IS HEREBY ORDERED that Plaintiff's Rule 60(b) Motion to Reopen is DISMISSED and STRICKEN from the record in accordance with the December 4, 1998 order of this court enjoining Plaintiff from filing or causing to be filed any further pleadings, motions or petitions in the above-listed matter.

BY THE COURT:
CLIFFORD SCOTT GREEN, S.J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION NOS. 90-2752, 89-0207, 88-3240, 88-2300, 88-2351, 86-1363, 85-2349

JAMES L. MARTIN, Plaintiff,

v.

JOHN D. WALMER; PHILHAVEN HOSPITAL; ROWLAND SHANK, et. al., Defendants

Filed July 26, 2000

ORDER

Presently before the Court is Plaintiffs Motion for Reargument of the Motion to Reopen pursuant to Rule 60(b). On July 7, 2000, I Dismissed the Plaintiffs Rule 60(b) Motion and Ordered it Stricken from the Record. (Docket #137). As Plaintiffs appeals in the above-captioned matters have been denied by the Court of Appeals for the Third Circuit and Plaintiff has not presented any new evidence supporting an assertion that this court has subject matter jurisdiction over his claims, I will dismiss the Motion and again order it stricken from the record.

AND NOW, this 25th day of July 2000, IT IS HEREBY ORDERED that Plaintiffs Motion for Reargument of the Motion to Reopen pursuant to Rule 60(b) is DISMISSED and the Clerk of Court is DIRECTED to STRIKE said Motion from the record. IT IS FURTHER ORDERED that James L. Martin is enjoined from filing or causing to be filed any further pleadings, motions or petitions in the above-listed matters.

BY THE COURT: CLIFFORD SCOTT GREEN, S.J.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Civil Action No. 88-298-SLR

JAMES L. MARTIN,
Plaintiff,

v.

DELAWARE LAW SCHOOL OF WIDENER UNIVERSITY, et al.,
Defendants.

ORDER

At Wilmington this 29th day of March, 2001, having reviewed plaintiff's motion to reopen (D. I. 78);

IT IS ORDERED that said motion (D. I. 78) is denied, for the reasons that follow:

1. The above-captioned case has been closed since February 16, 1994, when the United States Court of Appeals for the Third Circuit summarily affirmed the district court's order denying plaintiff's January 22, 1993 motion to reopen the case after the case had been closed upon affirmance by the Third Circuit of the district court's entry of judgment in favor, of defendants in 1990.

2. Plaintiff contends in his motion that he was granted leave to file this latest motion by Justice Souter. The exhibit to which plaintiff refers, however, is irrelevant to the instant motion. In the April 5, 2000 letter, a Supreme Court clerk indicates that Justice Souter granted plaintiff's application for an extension of time within which to file a petition for a writ of certiorari in a case other than the

instant case. (D. I. 79, Ex. la)

3. Aside from being untimely, the allegations contained in the motion are not new and have been substantially addressed by the many courts in which plaintiff has filed complaints.

United States District Judge